

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Deployment of Wireline Services Offering)	CC Docket No. 98-147
Advanced Telecommunications Capability)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions in the Telecommunications Act)	
of 1996)	
)	
Applications for Consent to the Transfer of)	CC Docket No. 98-141
Control of Licenses and Section 214)	
Authorizations from Ameritech Corporation,)	
Transferor to SBC Communications, Inc.,)	
Transferee)	
)	
Common Carrier Bureau and Office of Engineering)	NSD-L-00-48
and Technology Announce Public Forum on)	DA 00-891
Competitive Access to Next-Generation)	
Remote Terminals)	

COMMENTS OF TELIGENT, INC.
IN SUPPORT OF THE ALTS PETITION FOR DECLARATORY RULING:
BROADBAND LOOP PROVISIONING

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Deployment of Wireline Services Offering Advanced Telecommunications Capability)	CC Docket No. 98-147
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Implementation of the Local Competition Provisions in the Telecommunications Act of 1996)	CC Docket No. 96-98
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Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Ameritech Corporation, Transferor to SBC Communications, Inc., Transferee)	CC Docket No. 98-141
)	
Common Carrier Bureau and Office of Engineering and Technology Announce Public Forum on Competitive Access to Next-Generation Remote Terminals)	NSD-L-00-48 DA 00-891

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Teligent, Inc. ("Teligent") hereby submits its comments in the above-captioned proceeding.¹ Teligent supports ALTS' request that the Commission clarify its existing rules and

¹ Deployment of Wireline Services Offering Advanced Telecommunications Capability; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Ameritech Corporation, Transferor to SBC Communications, Inc., Transferee; Common Carrier Bureau and Office of Engineering and Technology Announce Public Forum on Competitive Access to Next-Generation Remote Terminals, CC Docket Nos. 98-147, 96-98, 98-141 and NSD-L-00-48, DA 00-891, Association for Local Telecommunications Services Petition for Declaratory Ruling: Broadband Loop Provisioning (filed May 17, 2000)("ALTS Petition" or "Petition").

policies with respect to ILEC provisioning of unbundled loops and subloops. Although Teligent supports the ALTS Petition generally, it limits its comments to specific issues raised by ILEC provisioning of a particular type of subloop -- subloops within multi-tenant buildings.

I. INTRODUCTION

In the *UNE Remand Order*, the Commission identified the inside wire subloop as an unbundled network element that ILECs must make available to competitors on a non-discriminatory basis at cost-based rates.² Because of the Commission's decision to identify a building's inside wiring as a subloop to which ILECs must offer requesting telecommunications carriers unbundled access, ILECs are proscribed from using their ownership of intra-building facilities to impede their competitors' access to consumers in multi-tenant buildings. Teligent strongly supports the Commission's identification of the inside wire subloop as an element that ILECs must provide on an unbundled basis pursuant to Section 251(c)(2) of the Communications Act of 1934, as amended.³ At the same time, however, Teligent believes that further clarity regarding this obligation would aid the development of facilities-based local competition through eliminating artificial obstacles to competitive entry.⁴

² Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-285, *Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, 15 FCC Rcd 3696, ¶¶ 205-29 (1999) ("*UNE Remand Order*"); 47 C.F.R. § 319(a)(2).

³ Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. § 151 et seq.).

⁴ Building owners, as the sometimes unreasonable gatekeepers to customer access, also often serve as significant obstacles to facilities-based local competition. The Commission is currently considering this issue in Promotion of Competitive Networks in Local Telecommunications Markets; Wireless Communications Association International, Inc. Petition for Rulemaking to Amend Section 1.4000 of the Commission's Rules to Preempt Restrictions on Subscriber Premises Reception or Transmission Antennas Designed To

ALTS is right to commend the Commission for the conclusions reached in the *UNE Remand Order* and equally accurate in identifying network element provisioning as a remaining issue worthy of the Commission's attention. The speed with which ILECs provision subloop UNEs is particularly important. Fixed wireless carriers will lease inside wiring UNEs so that they can provide service to requesting customers as quickly as possible. The carrier may aspire ultimately to rewire a building all the way to the customer premises. However, where the demarcation point is not located at the building's minimum point of entry, the rewiring process may not make economic sense until a sufficient number of customers are obtained in a particular building. Once a critical mass is achieved, the CLEC's installation of upgraded wiring becomes justifiable. In the interim period, a fixed wireless carrier may rely upon subloop UNEs to reach the customer. Delays in ILEC provisioning will translate directly into delays for the CLEC's commencement of service to the end user. In a competitive environment, customers understandably will not tolerate unreasonable delay. Hence, ILEC provisioning delays can impair the effective and vibrant development of local competition.⁵

Provide Fixed Wireless Services; Cellular Telecommunications Industry Association Petition for Rule Making and Amendment of the Commission's Rules to Preempt State and Local Imposition of Discriminatory And/Or Excessive Taxes and Assessments; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, WT Docket No. 99-217 and CC Docket No. 96-98, *Notice of Proposed Rulemaking and Notice of Inquiry in WT Docket No. 99-217, and Third Further Notice of Proposed Rulemaking in CC Docket No. 96-98*, 14 FCC Rcd 12673 (1999).

⁵ See *UNE Remand Order* at ¶ 91 ("We believe that any delay that a competitive LEC experiences in serving this fast-paced, high-growth market can impair its ability to provide its desired services.").

II. OBLIGATIONS TO DISPATCH AND COORDINATE WITH ILEC TECHNICIANS IN THE PROVISIONING OF SUBLOOP UNES IMPOSE UNNECESSARY COST AND DELAY ON CLECs.

The delays arising out of some ILEC practices create obstacles out of the *UNE Remand Order's* implementation and slow the realization of the Commission's goals. The bases for delay are familiar and, fortunately, these harmful practices are easily remedied by the Commission. For example, some ILECs require that ILEC technicians perform the function of connecting the CLEC's cable pairs to the ILEC's unbundled subloop pairs on a cross-connect panel. The dispatch and coordination with ILEC personnel imposes costs on the CLEC and delays its provision of service to the customer without serving any apparent public benefit. The cost of ILEC technicians becomes a part of obtaining subloop UNEs. Moreover, CLECs are forced to wait for ILEC technician availability when the function could be performed by the CLEC technicians themselves. If there are cross-connect facilities located in a multi-tenant building's basement equipment room, the CLEC should be permitted to access those wiring blocks in that basement equipment room without the necessity of ILEC personnel being present.⁶ The process of connecting a CLEC's loop to the ILEC's building inside wiring subloop via a cross-connect is technically simple. Indeed, certain ILECs permit CLECs to complete this task without supervision.

⁶ The Commission adopted a similar requirement with respect to cross-connect facilities on the ILEC's premises. The Commission noted that "[s]everal competitive LECs raise the issue of delay and cost associated with incumbent LEC provision of cross-connect facilities, which are often as simple as a transmission facility from one collocation rack to an adjacent rack. We see no reason for the incumbent LEC to refuse to permit the collocating carriers to cross-connect their equipment, subject only to the same reasonable safety requirements that the incumbent LEC imposes on its own equipment." Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, *First Report and Order and Further Notice of Proposed Rulemaking*, 14 FCC Rcd 4761 at ¶ 33 (1999).

In the context of subloop unbundling, the Commission has adopted a "best practices" approach. Pursuant to this approach, once one State determines that subloop unbundling at a particular point is technically feasible, such a practice will be presumed technically feasible for any ILEC, on a rebuttable basis.⁷ A similar approach should govern the process of connecting a CLEC's loop to the ILEC's building inside wiring subloop via a cross-connect. Specifically, if one major ILEC permits CLECs to perform this activity unsupervised, it should be presumed that ILEC-imposed conditions mandating ILEC supervision or requiring ILEC personnel to perform such functions are unreasonable.

ILECs likely will raise concerns over competitor access to ILEC network components. These concerns can be addressed contractually through the imposition of industry-accepted technical standards or certification. There is precedent for this suggestion. In the context of pole attachments, the Commission explained that the utility may require that only properly trained persons work in the proximity of utilities' lines, but proscribed utilities from requiring attaching parties to use the individual employees or contractors hired or pre-designated by the utility.⁸ The Commission reasoned that "allowing a utility to dictate that only specific employees or contractors be used would impede the access that Congress sought to bestow on telecommunications providers and cable operators"⁹ ILEC-imposed requirements that ILEC technicians supervise or perform the connection of the CLEC loop to the ILEC inside wiring

⁷ See UNE Remand Order at ¶ 227.

⁸ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order, 11 FCC Rcd 15499 at ¶ 1182 (1996) ("*Local Competition Order*").

⁹ Id.

subloop impedes CLEC access to UNE subloops in a similar manner. By requiring that parties address concerns over CLEC access to ILEC network components through the imposition of industry-accepted technical standards or certification, the Commission will adopt a similar solution to a familiar problem. In the end, permitting a degree of CLEC self-provisioning will promote smooth and efficient operation of the Commission's unbundling rules.

III. ILEC PRICING PRACTICES DELAY SUBLOOP UNE PROVISIONING TO CLECS.

ILEC control over subloop UNE pricing has created another source of delay. The failure of some ILECs to price UNE subloops within a reasonable period of time has delayed CLEC use of these facilities. As it stands, ILECs maintain the incentive to delay establishing UNE subloop rates as a mechanism for delaying competitive entry. Moreover, when the ILEC develops these rates, the levels often are unreasonably high. Again, the process of resolving disputes over rate levels is expensive and delays competitive entry. To eliminate this provisioning delay and to create ILEC incentives to price UNE subloops reasonably and quickly, the Commission should establish proxy rate ceilings (similar to those found in Section 51.513 of the Commission's rules), at which CLECs can lease subloop UNEs immediately and that will apply subject to true-up pending State level cost arbitration proceedings or ILEC tariff changes. The Commission should also require that the sum of the ILEC's subloop element costs plus any high-frequency (line shared) costs not exceed the total loop cost.

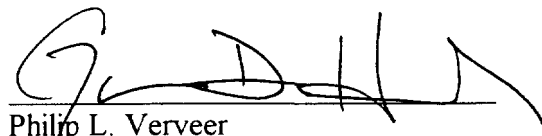
IV. CONCLUSION

These rather minor clarifications as to reasonable implementation of the Commission's unbundling rules will greatly facilitate the speed and efficiency of competitive entry. Teligent respectfully urges the Commission to include these clarifications in a declaratory ruling responsive to the ALTS Petition.

Respectfully submitted,

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